

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK**

**IN THE KINGATE MANGEMENT
LIMITED LITIGATION**

This Document Relates to All Actions

Master file No 09 Civ. 5386 (DAB)

ECF Case – Electronically Filed

DECLARATION OF DENNIS DWYER

I, **DENNIS DWYER**, declare pursuant to 28 U.S.C. 1746 as follows:

1. I submit this Declaration in support of the Defendants Motions to dismiss the Amended Consolidated Class Action complaint in the above caption action. I have personal knowledge of the facts set forth in this Declaration.
2. That I am Senior Litigation Counsel with the Bermuda law firm of Wakefield Quin Ltd who are attorneys representing Kingate Management Ltd, a company incorporated in Bermuda which at all material times acted as manager or co-manager of Kingate Global Fund Limited and Kingate Euro Fund Limited who were incorporated in the British Virgin Islands and who are in formal liquidation following a High Court Order of the Virgin Islands of 8th May 2009, and subsequently by Orders of the 4th June 2009 appointed Liquidators for the purposes of Winding-Up both Funds. On 7th August 2009, both Funds presented Petitions for Winding-Up to the Supreme Court of Bermuda and by Orders of that Court of 4th September 2009, the Court similarly ordered both Funds to be wound up.

3. That following my examination of the Cause Book at the Supreme Court of Bermuda in Hamilton, I ascertained that on 22nd December 2010, the Liquidators of the two aforementioned Funds caused to be filed in the Supreme Court of Bermuda proceedings in Cause Number 2010 454 naming Kingate Management Limited as First Defendant, FIM Ltd as Second Defendant, FIM Advisors LLP as Third Defendant, First Peninsular Trustees Limited (As Trustee of the Ashby Trust) as Fourth Defendant, Port of Hercules Trustees Limited (As Trustee of the El Praela Trust) as Fifth Defendant, Ashby Holding services Limited, as Sixth Defendant, El Praela Group Holding Services Limited as Seventh Defendant, Mr. Carlo Grosso as Eighth Defendant and Mr. Federico Ceretti as Ninth Defendant. Subsequently a Writ of Summons together with the accompanying Statement of Claim were served in Bermuda at the offices of Wakefield Quin Ltd as attorneys for and on behalf of Kingate Management Limited. That as of the date of this Declaration I am not aware as to whether such proceedings have yet been served upon the other named Defendants.
4. I declare, under penalty of perjury under the laws of the United States of America that the foregoing is true and correct.

Dated this 10th day of February 2011

Signed 

Dennis W. Dwyer

Wakefield Quin Ltd

Barristers & Attorneys

Hamilton Bermuda